

THE LANDS TRIBUNAL ACT, 2010

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GOVERNMENT OF ZAMBIA

ACT

No. 39 of 2010

Date of Assent: 14th November, 2010

An Act to continue the existence of the Lands Tribunal; provide for the powers and functions of the Tribunal; and provide for matters connected with, or incidental to, the foregoing.

[19th November, 2010]

ENACTED by the Parliament of Zambia.

Enactment

PART I
PRELIMINARY

1. This Act may be cited as the Lands Tribunal Act, 2010, and shall come into operation on such date as the Minister may, by statutory instrument, appoint. Short title and commencement

2. In this Act, unless the context otherwise requires— Interpretation
 - “assessor” means a person appointed as such under subsection (7) of section *ten*;
 - “Chairperson” means the person appointed as Chairperson of the Tribunal under section *five*;
 - “council registrar” has the meaning assigned to it in the Housing (Statutory and Improvement Areas) Act; and Cap. 194
 - “Deputy Chairperson” means the person appointed as Deputy Chairperson of the Tribunal under section *five*;
 - “former Tribunal” means the Lands Tribunal established under the Lands Act; Cap. 184
 - “Lands Register” has the meaning assigned to it in the Lands and Deeds Registry Act; Cap. 185
 - “member” means a member of the Tribunal;

- Cap. 185
- “person in authority” means the President, the Minister, the Minister responsible for local government, the Director-General of the Zambia Wildlife Authority, the Surveyor General, the Director of Forestry, a chief, the Registrar or a council registrar;
- “register” means the register kept under section *seven*;
- “Registrar” has the meaning assigned to it in the Lands and Deeds Registry Act;
- “Registrar of the Tribunal” means the person appointed Registrar of the Tribunal under section *seven*; and
- “Tribunal” means the Lands Tribunal referred to under section *three*.

PART II

THE LANDS TRIBUNAL

- Continuation of Tribunal
Cap. 184
3. The Lands Tribunal established under the Lands Act, 1995, shall continue to exist as if established under this Act.
- Jurisdiction of Tribunal
4. (1) Subject to the Constitution, the Tribunal shall have jurisdiction to hear and determine disputes relating to land and in particular—
- Cap. 184
Cap. 185
Cap. 194
- (a) to inquire into, and make awards and decisions in, any dispute relating to land under the Lands Act, the Lands and Deeds Registry Act, the Housing (Statutory and Improvement Areas) Act or any other law;
- (b) to inquire into, and make awards or decisions in, any dispute relating to land under customary tenure;
- Cap. 184
Cap. 189
- (c) to inquire into, and make awards or decisions relating to, any dispute of compensation to be paid in relation to land under the Lands Act, the Lands Acquisition Act or any other law;
- Cap. 184
- (d) to inquire into, and adjudicate upon, any matter affecting the land rights and obligations, under the Lands Act, of any person or the Government;
- Cap. 194
Cap. 185
- (e) to hear and determine appeals against a direction or decision of a person in authority relating to land under the Lands Act, the Lands and Deeds Registry Act, the Housing (Statutory and Improvement Areas) Act or any other law;
- (f) to make orders for the rectification of entries made in the Lands Register;
- (g) to make orders for the cancellation of certificates of title that it considers to have been erroneously issued or to

have been obtained fraudulently, or that it otherwise considers necessary to cancel;

- (h) to make any declaration that it considers appropriate and issue any order for the implementation of the declaration;
- (i) subject to the State Proceedings Act, to grant injunctive relief or any other interlocutory relief that it considers appropriate; and
- (j) to perform such acts and carry out such functions as may be prescribed under any other written law.

Cap. 71

(2) An order of the Tribunal shall be enforced as if it were an order of court, if no application for the review of the order is made.

5. (1) The Tribunal shall consist of the following members who shall be appointed by the Minister:

Composition of Tribunal

- (a) a Chairperson, who shall be a legal practitioner of not less than seven years legal experience;
- (b) a Deputy Chairperson, who shall be a legal practitioner of not less than seven years legal experience
- (c) a representative of the Attorney-General who shall be an advocate of not less than seven years legal experience;
- (d) a representative of the Law Association of Zambia of not less than seven years legal experience; and
- (e) a representative of the House of Chiefs;
- (f) a planner registered under the Urban and regional Planners Act, 2010;
- (g) a land surveyor registered under the Land Survey Act;
- (h) a valuation surveyor registered under the Valuation Surveyors' Act; and
- (i) not more than three persons from the public and private sectors.

Act No. of 2010

Cap. 188

Cap. 207

(2) The members referred to under paragraphs (a), (b) and (c) shall be appointed in consultation with the Judicial Service Commission.

(3) The members of the Tribunal shall be appointed on such terms and conditions as may be specified in their letters of appointment.

(4) A person shall not be appointed as a member of the Tribunal if the person—

- (a) is an undischarged bankrupt;
- (b) is insane or of unsound mind;
- (c) is in lawful custody or the person's freedom of movement is restricted under any law in force within or outside Zambia; or

Tenure of
office and
vacancies

(d) has been convicted of an offence under any law and sentenced therefor to imprisonment without the option of a fine.

6. (1) Subject to subsection (2), a member shall hold office for a period of five years from the date of appointment and may be re-appointed for one further term.

(2) The office of a member shall become vacant—

- (a) upon the member's death;
- (b) if a member is absent without reasonable excuse from three consecutive sittings of the Tribunal of which the member had notice;
- (c) if the member is adjudged bankrupt;
- (d) if the member becomes mentally or physically incapable of performing the duties of a member;
- (e) if the member is convicted of an offence under any written law and sentenced therefor to imprisonment for a term exceeding six months without the option of a fine;
- (f) in the case of a member referred to under paragraphs (a), (b) and (c) of subsection (1) of section *five*, that member ceases to practise as a legal practitioner on disciplinary grounds confirmed by the Law Association of Zambia;
- (g) in the case of a member referred to under paragraph (e) of subsection (1) of section *five*, that member ceases to practise as a planner on disciplinary grounds confirmed by the Zambia Institute of Planners;
- (h) in the case of a member referred to under paragraph (f) of subsection (1) of section *five*, that member ceases to practise as a land surveyor on disciplinary grounds confirmed by the Survey Control Board; or
- (i) in the case of a member referred to under paragraph (g) of subsection (1) of section *five*, that member ceases to practise as a valuation surveyor on disciplinary grounds confirmed by the Valuation Surveyors Registration Board.

(3) Wherever the office of a member becomes vacant before the expiry of the term of office, the Minister may appoint another member in place of the member who vacates office but that member shall hold office only for the unexpired part of the term.

7. (1) There shall be a Registrar of the Tribunal, who shall be appointed by the Judicial Service Commission.

Registrar of
Tribunal

(2) The Registrar of the Tribunal shall, subject to this Act or any rules made under this Act—

- (a) issue all summonses;
- (b) keep a record of all the proceedings of the Tribunal;
- (c) keep, or cause to be kept and maintained, a register of all orders and judgments of the Tribunal;
- (d) have the custody, and keep an account, of all fees and other moneys payable or paid to the Tribunal, and shall keep proper accounts thereof;
- (e) subject to any rules made under this Act, hear and determine interlocutory applications:

Provided that no direction or order made on an interlocutory application shall operate so as to prejudice the Tribunal from giving such decision upon the case as may be just; and

- (f) have such other functions and exercise such other powers as may be conferred by rules made under section *nineteen* or by any other written law.

(3) A person aggrieved with a decision of the registrar may appeal to the chairperson and in the absence of the Chairperson, the vice-Chairperson and in the absence of both the Chairperson and Vice-Chairperson, the representative of the Law Association of Zambia.

(4) A person shall not be appointed as Registrar of the Tribunal unless the person is a legal practitioner with five years legal experience.

(5) The Ministry responsible for lands shall provide such other staff as may be necessary for the performance of the functions of the Tribunal.

(6) For the purposes of this section, “legal practitioner” has the meaning assigned to it in the Legal Practitioners Act.

Cap. 30

8. A person may apply to the tribunal for a determination on any matter which falls within the jurisdiction of the Tribunal.

Application
to Tribunal

9. A complaint, application or other document required to be filed under this Act shall be filed in the office of the Registrar.

Filing of
complaints,
applications,
etc.

Proceedings
of tribunal

10. (1) The Tribunal shall sit at such places and times as the Chairperson or, in the absence of the Chairperson, the Deputy Chairperson may determine.

(2) The Chairperson shall preside over the sittings of the Tribunal, and in the absence of the Chairperson, the Deputy Chairperson.

(3) The Tribunal shall, when hearing any matter, be duly constituted if it consists of three members which number shall include either the Chairperson or the Deputy Chairperson.

(4) The Tribunal may sit as a circuit tribunal.

(5) Three members of the Tribunal shall constitute a circuit tribunal: Provided that each circuit shall include the Chairperson or the Deputy Chairperson or the representative of the Law Association of Zambia.

Cap. 87

(6) A hearing before the tribunal shall, for all purposes, and in particular for the purposes of Chapter XI of the Penal Code, be deemed to be a judicial proceeding.

(7) The determination of any matter before the Tribunal shall be according to the opinion of the majority of the members considering the matter:

Provided that—

(a) in the event of an equality of votes, the person presiding at the sitting shall have, in addition to a deliberative vote, a casting vote; and

(b) where in any matter before the Tribunal the dispute to be resolved is on a point of law, the decision of the person presiding at the sitting, shall prevail.

(8) A person appearing as a party before the Tribunal may appear in person or through a legal practitioner at the person's own expense.

(9) In any proceedings before the Tribunal, the Government may be represented by the Attorney-General or by any other person authorised by the Attorney-General for that purpose.

(10) The Tribunal may appoint persons who have ability and experience in land, agriculture, commerce or other relevant professional qualifications as assessors for purposes of assisting the Tribunal in the determination of any matter before it.

(11) If a member or assessor is present at a meeting or hearing of the Tribunal at which any matter in which the member's or assessor's spouse is directly or indirectly interested in a private capacity, is the subject of consideration, the member or assessor shall as soon as is practicable after the commencement of the meeting or hearing, disclose

such interest, and shall not, unless the Tribunal otherwise directs, take part in any consideration or discussion or for vote on any question relating to that matter.

(12) A disclosure of interest made under this section shall be recorded in the record of the proceedings at which it is made.

(13) The validity of any proceedings, act or decision of the Tribunal shall not be affected by any vacancy in the membership of the Tribunal or by any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(14) The Tribunal shall cause to be kept a record of its proceedings.

11. (1) The Tribunal may—

(a) order the parties or either of them to produce to the Tribunal such information as the Tribunal considers necessary for purposes of the proceedings; or

(b) take any other course which may lead to the just, speedy and inexpensive settlement of any matter before the Tribunal.

(2) The Tribunal may summon witnesses, call for the production and inspection of, any book, document, record and other thing, and examine witnesses.

(3) A summons for the attendance of a witness or for the production of any book, document, record or other thing shall be signed by the Registrar of the Tribunal and served in the same manner as a subpoena for the attendance of a witness at a civil trial in a High Court.

(4) Any person giving evidence or summoned to give evidence or to produce any book, document, record or other thing before the Tribunal, shall be entitled to the same privileges and immunities as if the person were summoned to attend or were giving evidence in a civil proceeding before a High Court.

(5) A person summoned under this section, other than a public officer or a person having an interest in the proceedings for which the person is summoned, may on the order of the Tribunal be paid from moneys appropriated by Parliament such allowances as may be prescribed.

12. The Tribunal shall deliver judgment on any matter within sixty days after the conclusion of the hearing of the case.

Powers of
Tribunal
with respect
to
proceedings

Judgment
of Tribunal

- Publication of judgments of Tribunal** **13.** The Registrar of the Tribunal shall cause every award, decision or judgment of the Tribunal to be communicated to the parties concerned.
- Frivolous or vexatious proceedings** **14.** If the Tribunal determines that any application to the Tribunal is frivolous or vexatious, it shall dismiss the application and may order the applicant to pay the applicant's costs, that of the other party and that of the Government in connection with the proceedings.
- Immunity of members and staff of Tribunal** **15.** An action or other proceeding shall not lie or be instituted against a member or a member of staff of the Tribunal for any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance of any of the powers or functions conferred under this Act.
- Appeal to High Court** **16.** A person aggrieved with the decision of the Tribunal may, within thirty days of the receipt of its decision, appeal to the High Court.
- Expenses of Tribunal** **17.** The expenses and costs of the Tribunal shall be paid out of funds appropriated by Parliament for the performance of the Tribunal's functions under this Act.
- Rules** **18.** The Chief Justice may, by statutory instrument, make rules—
- (a) prescribing the powers and functions of the Registrar of the Tribunal;
 - (b) prescribing the forms to be used in connection with any matter before the Tribunal;
 - (c) prescribing the procedure for summoning and compelling the appearance of witnesses and the production of any document or other evidence before the Tribunal;
 - (d) prescribing the procedure to be followed and the rules of evidence to be observed in proceedings before the Tribunal;
 - (e) prescribing the functions of assessors;
 - (f) empowering the Tribunal to award costs and to do and require all such acts and things as may be necessary for the performance of the Tribunal's functions under this Act;
 - (g) prescribing the procedure for the review of the taxation of costs;
 - (h) for regulating the procedure relating to appeals from the Tribunal; and

- (i) for regulating or prescribing any other matter which is to be regulated or prescribed by rules by the Chief Justice under this Act.

PART III
GENERAL PROVISIONS

19. (1) The Tribunal may make an order as to costs as it may consider just having regard to the circumstances of the case.

Costs

(2) Subject to subsection (1), the costs and charges in connection with any proceedings before the Tribunal shall be the costs reasonably incurred by a person in connection with the proceedings or such part of those costs as may be determined by the Tribunal.

(3) The Registrar of the Tribunal shall tax all bills of costs in accordance with the scale of fees for the time being in use in the High Court in civil cases.

(4) A person who is aggrieved with a decision of the Registrar of the Tribunal under subsection (3) shall, within fourteen days of the receipt of the decision, apply to the person presiding over the Tribunal to review the Taxation.

20. (1) A person who is summoned to give evidence or to produce any book, document or thing and—

Offences

- (a) without reasonable excuse, fails to attend as required;
- (b) refuses to be sworn or affirmed as a witness;
- (c) having been sworn as a witness, refuses to answer any question lawfully put to that person; or
- (d) without reasonable excuse, fails to produce the book, document or thing;

commits an offence and is liable, upon conviction, to a fine not exceeding seven hundred and fifty penalty units or to imprisonment for a period not exceeding six months.

(2) A person who knowingly gives false testimony regarding any matter which is material to a question in any proceedings before the Tribunal commits an offence and is liable, upon conviction, to imprisonment for a period not exceeding seven years.

21 (1) The Minister may, by statutory instrument, make regulations for the purposes of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for—

- (a) the organisation and administration of the Tribunal;
- (b) the allowances to be paid to witnesses under section *eleven*; and
- (c) anything that is required to be prescribed under this Act.

Transitional provisions

22. (1) On, or after, the commencement of this Act, reference in any written law or other document to the Lands Tribunal shall be read and construed as a reference to the Tribunal.

(2) On, or after, the commencement of this Act, reference in any written law or other document to the Chairperson of the Lands Tribunal shall be read and construed as a reference to the Chairperson of the Tribunal.

Savings

23. Notwithstanding the provisions of this Act —

- (a) any appeal or proceedings pending before the former Tribunal before the commencement of this Act shall be continued by, or re-commenced before, the Tribunal; and
 - (b) any right or benefit accruing or liability incurred, before the former Tribunal shall continue in accordance with, and subject to, this Act.
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